THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.17623 of 2006

08.9.2006

Between:
M.Uma Shankar, S/o.late M.Basavaraj

… Petitioner

AND

The District Collector, Anantapur District
And others

… Respondents

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.17623 of 2006

ORDER:

The petitioner is proprietor of Sri Mallikarjuna Furnitures in Anantapur. He is a lessee of fourth respondent. Aggrieved by the proceedings of the District Collector, Anantapur – the first respondent herein; dated 16.8.2006 whereby and whereunder the first respondent ordered resumption of the land admeasuring Acs.0.05 cents in survey No.2058-2 situated at Anantapur, from the fourth respondent, the present writ petition is filed.

It is the case of the petitioner that the fourth respondent leased out the property i.e., shop to the petitioner on 22.4.2004 for a period of two years i.e., till 21.4.2006 under a registered lease deed. The lease was subsequently extended to 21.4.2008. The petitioner is running a furniture shop. The respondents 2 and 3 inspected the premises on 22.8.2006, and thereafter without issuing any notice to the petitioner, the District Collector passed the impugned order.

At the stage of admission itself, learned Assistant Government Pleader for Revenue (General) sought time and has now filed a detailed counter affidavit on behalf of the third respondent. It is not necessary to elaborately summarize the contents thereof. Suffice to notice that by proceedings dated 18.9.1983, the District Collector pursuant to alienation of the land admeasuring about Acs.0.05 cents in favour of the fourth respondent ordered to handover possession of the same to enable the fourth respondent to construct handicrafts emporium. Some time in July 2006, the Joint Collector and other

revenue officials inspected the premises. Having found that the fourth respondent allegedly contravened the conditions of alienation, issued show cause notice dated 17.7.2006 calling upon the fourth respondent to show cause as to why the alienation/grant should not be cancelled. It appears that the fourth respondent did not offer explanation, as a result of which, the impugned proceedings dated 16.8.2006 came to be passed.

Nowhere in the counter, there is even whisper that a notice was issued to the petitioner, who is admittedly – as seen from various averments in the counter affidavit – in possession of a shop portion in Lepakshi Emporium at Anantapur. In such a situation, it would be futile in the learned Assistant Government Pleader contending that the notice issued to the fourth respondent is sufficient compliance with the principles of natural justice. By reason of the impugned order resuming the land/building from the possession of the fourth respondent, the petitioner is the person, who would be directly affected, and he has to face civil consequences. Therefore, notwithstanding the show cause notice issued to the fourth respondent, a notice ought to have been issued to the petitioner. Though it is a curable defect, it goes to the root of the matter insofar as the petitioner is concerned and, therefore, the impugned order as against the petitioner is not sustainable.

The writ petition is, accordingly, disposed of, observing that unless and until the petitioner is put on notice for resumption of the property in his possession, he cannot be dispossessed. No costs.

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(**V.V.S.RAO, J**)

September 08, 2006.
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